

REMARKS

STATUS OF CLAIMS

Claims 1-48 were pending in the application. Claims 1, 5, 14-15, 17, 19, 21, 30-31, 33, 35, and 46-47 have been amended, claims 3-4, 6, 13, 20, 22, 29, 36, 38, and 45 have been cancelled without prejudice or disclaimer, while no claims have been added. Therefore, claims 1-2, 5, 7-12, 14-19, 21, 23-28, 30-35, 47, 39-44, and 46-48 are pending and are submitted for reconsideration.

OBJECTIONS TO THE CLAIMS

Applicants have amended or cancelled claims to address the issues identified in paragraphs 5-7 of the office action and submit that these claims are now unobjectionable.

REJECTIONS UNDER 35 USC §101

In the office action, claims 17-32 were rejected under 35 USC §112, second paragraph as being directed to non-statutory subject matter. Applicants have amended claim 17 to address this rejection and claims 17-32 are now believed to be statutory under currently applicable law under section 101. If the examiner has any questions with respect to the section 101 issues, the examiner is respectfully requested to contact the undersigned attorney so that this issue may be expediently resolved.

REJECTION UNDER 35 USC §112

In the office action, claims 13-15, 29-31, and 45-47 have been rejected under 35 USC §112 as being indefinite because the office action asserts that “it is not particularly clear as to what the applicant intends to achieve though testing.” In reply, applicants have amended claims 1, 17, and 33 (which incorporate the features previously found in claims 13, 29, and 45 respectively) to recite that the comparison of the slope for a specified control interval against an estimate of a constant slope associated with

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additional network capacity in at least one previous control interval is used to adjust the receive window size for the subsequent control interval based on a result of the comparing. Accordingly, it is believed that the amended independent claims 1, 17, and 33 (and claims 14-15, 30-31, and 46-47 which depend respectively therefrom) are in definite form and meet the requirements of section 112.

Specifics of how the adjustment is done based on the slope values is illustrated, for example, in figure 4 and its discussion on pages 9-12 of the application.

PRIOR ART REJECTIONS

In the office action, claims 1-10, 16-26, 32-42, and 48 are rejected under 35 USC 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0080721 (hereafter “Tobagi”). Claims 11, 12, 27, 28, 43, and 44 were rejected under 35 USC 103(a) as being unpatentable over Tobagi in view of U.S. Patent No. 6,597,660 (hereafter “Rueda”). Applicants respectfully traverse these rejections for at least the following reasons.

Independent claim 1 recites, *inter alia*,

generating an adjusted receive window size for a subsequent control interval... wherein the operation of generating further comprises evaluating a measured amount of the transfer data received by the second node during the specified control interval relative to the specified received window size to determine a slope for the specified control interval; and

comparing the slope for the specified control interval against an estimate of a constant slope associated with additional available network capacity in at least one previous control interval and adjusting the receive window size for the subsequent control interval based on a result of the comparing.

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Several of these recited features are not disclosed or suggested by the applied references. Neither Tobagi nor Rueda discloses these recited features and the office action does not apply any prior art with respect to these claimed features which were substantively recited in previously pending claim 13. These recited features are supported in the specification, for example, by figure 4 and its description on pages 9-12 of the specification.

Tobagi discloses controlling data transfer rates on a TCP/IP network by limiting the available space on a receive buffer by either moderating the rate in which data is removed from the buffer or changing the size of the receive buffer. See, for example, Abstract of Tobagi. Nowhere does Tobagi disclose or suggest that the comparing the slope for the specified control interval against an estimate of a constant slope associated with additional available network capacity in at least one previous control interval and adjusting the receive window size for the subsequent control interval based on a result of the comparing. Accordingly, since this disclosed feature is completely missing from the disclosure of Tobagi, independent claim 1 is not anticipated by Tobagi.

Furthermore, since the deficiencies of Tobagi are not cured by Rueda which is cited for disclosing how to determine operational parameters in network traffic analysis. Accordingly, independent claim 1 is patentable over the applied art.

Independent claim 17 recites, *inter alia*, wherein the operation of generating further comprises evaluating a measured amount of the transfer data received by the second node during the specified control interval relative to the specified received window size to determine a slope for the specified control interval, and comparing the slope for the specified control interval against an estimate of a constant slope associated with additional available network capacity in at least one previous control interval and adjusting the receive window size based on a result of the comparing. As discussed

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above with respect to claim 1, these recited features are also not disclosed by the applied art. Accordingly, independent claim 17 is patentable over the applied art.

Independent claim 33 recites, *inter alia*, the adjusting module generates the adjusted receive window size by evaluating a measured amount of the transfer data received by the second node during the specified control interval relative to the specified received window size to determine a slope for the specified control interval; and comparing the slope for the specified control interval against an estimate of a constant slope associated with additional available network capacity in at least one previous control interval and adjusting the receive window size for the subsequent control interval based on a result of the comparing. As discussed above with respect to claim 1, these recited features are not disclosed by the applied art. Accordingly, independent claim 33 is patentable over the applied art.

DEPENDENT CLAIMS

The dependent claims are deemed to be patentable at least based on their dependence from allowable independent claims. In addition, they recite patentable subject matter when considered as a whole.

Specifically, independent claims 14-15, 30-31, and 46-47 recite additional features which are not disclosed or suggested by the applied art as essentially acknowledged in the office action since no reference has been applied against the features recited in these claims. Therefore, these recited features provide additional reasons for the patentability of these claims.

It should be noted that applicants have not separately argued the patentability of each of the dependent claims in view of the patentability of the independent claim from which they ultimately depend. However, applicants reserve the right to distinguish these claims over the presently applied reference and do not acquiesce in the currently applied

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rejections in view of the clear deficiencies of the applied reference with respect to the independent claim 1 as discussed earlier herein.

CONCLUSION

Accordingly, applicants submit that the application is now in condition for allowance and an indication of the same is respectfully requested. If the Examiner believes that the application is not in condition for allowance, the Examiner is respectfully requested to call the Applicants' representative at the telephone number listed below.

If this Amendment is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this Response, including an extension fee that is not covered by an enclosed check please charge any deficiency to Deposit Account No. 50-0463.

Respectfully submitted,
Microsoft Corporation

Date: January 14, 2008

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January 14, 2008
Date

/Noemi Tovar/
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